App. F. IX-4

1929-30

File No. 35-29

Previous References
'R A 46-28-1X2

(R.A)

Serial Nos. 1

Later References

General and Revenue Secretariat.

Serial Nos. Pne

P 26-E

Part B for January 1930

SUBJECT

Amendment of rules relating to the decision of disputes as to the validity of any election to the Representative Assembly.

1) To the Compiler, Mysore Gazette
Notifn. no Rel 509 dt 20. 12. 29

Issues ~~[illegible]~~ rules for the decision of disputes as to validity of any election to the Rep. Assembly in supersession of the existing rules on the subject.

Neil Peliai
28/2/30.

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App. F. III—2]

General and Revenue Secretariat. | RA File No. 35 of 1929-30

Serial No.	
1	Approved for issue in file no RA-A 38 29-1 To the Accountant, Mysore Gazette Notifn. no Rel 509 dt 20.12.1929 Issues revised rules for the decision of disputes as to the validity of any election to the Rep. Assembly in supersession of existing rules on the subject.

NOTE—Contn. sheet.

WD 066—GPB—30,000—26-7-29

Notification.

No. Rel 509 RA 35-9-1

In exercise of the powers vested in them under Section 6 of the Mysore Representative Assembly Regulation, XVIII of 1923, the Government of His Highness the Maharaja are pleased to make the following rules, in supersession of the rules laid down in Notification No. P. 2400/Legis. 12-23-7 dated 7th November 1923, for the decision of disputes as to the validity of any election to the Representative Assembly:--

Dated 26-12-1929

Rule 15 of the Rules framed with Notfn No 3253 Legis 12-23-11 D/ 19-12-23

Rule 16 of the rules, issued with Notfn No P3584 D/5-9 January 1924 Legis 12-23-14

Rule 9 of the rules framed with Notfn No P3923 D/16-1-24 Legis 12-23-21

"Election" "election" under the heading "elections"

1 72. No election of a candidate shall be valid if any corrupt practice is committed in connection therewith by the candidate or at his instance.

Election of a candidate to be invalid if corrupt practice is committed by the candidate or at his instance.

2 73. A person, shall be deemed to have committed a corrupt practice—

Definition of corrupt practice.

(i) who, with a view to induce any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration or holds out any promise of individual profit, or holds out any threat of injury to any person; or

(ii) who himself or through his agent or at his expense feeds or entertains his voters shortly before the poll, or pays the expenses of travel or hired conveyance, in order to induce them to give votes in his favour; or

(iii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote; or

(iv) who induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual censure.

And a corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge or consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation. The expression "a promise of individual profit" includes a promise for the benefit of the person himself or of any one in whom he is interested.

3 74. Any person who was a candidate at the election or not less than ten voters may, within one week after the day on which the result of the election was declared, contest the election of a candidate on the ground of corrupt practice or on the ground of any illegality or material irregularity, by presenting in writing a petition to the authority mentioned below:—

Election petition by whom, to whom and when to be presented.

Legal interests	... Bangalore District Judge,
Mysore University	.. Mysore District Judge,
Constituency consisting of more than one association.	The District Judge of the Division in which the person against whose election objection is taken resides.
Any other constituency.	The District Judge of the Division in which the election took place.

(3)

Provided that on sufficient cause being shown, the limit of one week prescribed by this rule may be extended by the District Judge.

Contents of the Election petition.

75. (1) The petition shall specify the acts which the objector or objectors allege as amounting to corrupt pratice, illegality or material irregularity and affecting the result of the election and which he or they are prepared to substantiate and set forth full particulars of such corrupt practice including as full a statement as possible of the names of the persons alleged to have committed it and the date and place of the commission of the same.

(2) The petition shall be signed and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure.

Petition to be accompanied by deposit.

76. Every petition shall be accompanied by a deposit of Rs. 100 (one hundred) as security towards all costs, which may become payable by the petitioner or petitioners.

Petition to be posted for hearing.

77. The petition shall be posted for hearing and notice thereof shall be given to the candidate whose election has been objected to.

Enquiry by Judge.

78. (1) The District Judge may, after summary inquiry, pass an order confirming or amending the declared result of the election or setting aside the election. For the purpose of the said inquiry, the District Judge may summon or enforce the attendance of witnesses and compel them to give evidence and he may also direct, by whom the whole or any part of the costs of any such inquiry shall be paid. If the costs are to be paid by the candidate whose election is contested, the whole of such costs and if the costs are to be paid by the petitioner or petitioners, such portion, if any, of the costs as is in excess of the sum of Rs. 100 paid at the time of the presentation of the petition, shall be recoverable as if it had been awarded in a suit under the Code of Civil Procedure. The procedure prescribed in the Code of Civil Procedure shall, as far as possible, be followed in such inquiries.

(2) (*a*) The District Judge, if he is satisfied that a candidate has within the meaning of para 78 Rule 2 committed any corrupt practice for the purpose of the election, shall set aside the election of such candidate if he has been elected.

(*b*) If in any case to which clause (*a*) does not apply the validity of the election is in dispute between two or more candidates, the District Judge shall, after scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who has secured the largest number of votes to have been duly elected: Provided that for the purpose of such computation, no vote shall be reckoned as valid if the District Judge finds that any corrupt practice was committed by any person known or unknown in giving or obtaining it.

(3) If the validity of the election is questioned or disputed only on the ground of an error by the officer or officers charged with carrying out the

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rules relating to the conduct of elections or of an irregularity or informality not corruptly caused, the District Judge shall not set aside the election.

Explanation.—The expression 'error' in this sub-paragraph does not include any breach of or any omission to carry out or any non-compliance with the provisions of the rules whereby the result of election has been materially affected.

(4) If the District Judge sets aside the election, necessary steps shall be taken for holding a fresh election.

(5) An appeal shall lie to the Chief Court from the order of the District Judge only on a point of law.

(6) An appeal under ~~sub-paragraph~~ sub-rule (5) shall be preferred within 15 days from the date of such order exclusive of the time required for obtaining a copy of the order.

The rules notified with Notification No. abrogated. Cancelled
P 2400 D 7.11.23 are hereby
Legi 12-23-7

Dm

By order

To Secretary to Govt
Law Department

The Compiler, Nagpur Gazette for publication

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LAW SECRETARIAT.

No. Rel. 509—*R. A.* 35-29-1, *dated* 18—20*th December* 1929.

In exercise of the powers vested in them under Section 6 of the Mysore Representative Assembly Regulation, XVIII of 1923, the Government of His Highness the Maharaja are pleased to make the following rules, in supersession of the rules laid down in Notification No. P. 2400—Legis. 12-23-7, dated 7th November 1923, Rule 15 of the Rules issued with Notification No. 3255—Legis. 12-23-11, dated 19th December 1923, Rule 16 of the Rules issued with Notification No. P. 3584—Legis. 12-23-14, dated 5th January 1924, and Rule 9 of the Rules under the heading "Elections" issued with Notification No. P. 5923—Legis. 23-21, dated 16th January 1924, for the decision of disputes as to the validity of any election to the Representative Assembly :—

1. No election of a candidate shall be valid if any corrupt practice is committed in connection therewith by the candidate or at his instance.

Election of a candidate to be invailed if corrupt practice is committed by the candidate or at his instance.

Definition of corrupt practice.

2. A person, shall be deemed to have committed a corrupt practice.

(*i*) who, with a view to induce any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration or holds out any promise of individual profit, or holds out any threat of injury to any person ; or

(*ii*) who himself or through his agent or at his expense feeds or entertains his voters shortly before the poll, or pays the expenses of travel or hired conveyance, in order to induce them to give votes, in his favour ; or

(*iii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote ; or

(*iv*) who induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered any object of divine displeasure or of spiritual censure.

EXPLANATION.—

(*a*) A corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge or consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

(*b*) The expression "a promise of individual profit" includes a promise for the benefit of the person himself or of any one in whom he is interested.

3. Any person who was a candidate at the election or not less than ten voters may, within one week after the day on which the result of the election was declared, contest the election of a candidate on the ground of corrupt practice or on the ground of any illegality or material irregularity, by presenting in writing a petition to the authority mentioned below :—

Election petition by whom, to whom and when to be presented.

Legal interests. District Judge, Bangalore.

Mysore University. District Judge, Mysore.

Constituency consisting of more than one association. District Judge of the division in which the person against whose election objection is taken resides.

Any other constituency. District Judge of the division in which the election took place.

Provided that on sufficient cause being shown, the limit of one week prescribed by this rule will be extended by the District Judge.

4. (1) The petition shall specify the acts which the objector or objectors allege as amounting to corrupt practice, illegality or material irregularity and affecting the result of the election and which he or they are prepared to substantiate and set forth full particulars of such corrupt practice including as full a statement as possible of the names of the persons alleged to have committed it and the date and place of the commission of the same.

Contents of the Election petition.

(2) The petition shall be signed and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure.

5. Every petition shall be accompanied by a deposit of Rs. 100 (one hundred) as security towards all costs, which may become payable by the petitioner or petitioners.

Petition to be accompanied by deposit.

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6. The petition shall be posted for hearing and notice thereof shall be given to the candidate whose election has been objected to.

Petition to be posted for hearing.

7. (1) The District Judge may, after summary inquiry, pass an order confirming or amending the declared result of the election or setting aside the election. For the purpose of the said inquiry, the District Judge may summon or enforce the attendance of witnesses and compel them to give evidence and he may also direct, by whom the whole or any part of the costs of any such inquiry shall be paid. If the costs are to be paid by the petitioner or petitioners, such portion, if any, of the costs as is in excess of the sum of Rs. 100 paid at the time of the presentation of the petition, shall be recoverable as if it had been awarded in a suit under the Code of Civil Procedure. The procedure prescribed in the Code of Civil Procedure shall, as far as possible, be followed in such inquiries.

Enquiry by Judge.

(2) (*a*) The District Judge, if he is satisfied that a candidate has within the meaning of Rule 2 committed any corrupt practice for the purpose of the election, shall set aside the election of such candidate if he has been elected.

(*b*) If in any case to which clause (a) does not apply the validity of the election is in dispute between two or more candidates, the District Judge shall, after scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who has secured the largest number of votes to have been duly elected: Provided that for the purpose of such computation, no vote shall be reckoned as valid if the District Judge finds that any corrupt practice was committed by any person known or unknown in giving or obtaining it.

(3) If the validity of the election is questioned or disputed only on the ground of an error by the officer or officers charged with carrying out the rules relating to the conduct of elections or of an irregularity or informality not corruptly caused, the District Judge shall not set aside that election.

EXPLANATION.—

The expression 'error' in this sub-rule does not include any breach of or any omission to carry out or any non-compliance with the provisions of the rules whereby the result of election has been materially affected.

(4) If the District Judge sets aside the election, necessary steps shall be taken for holding a fresh election.

(5) An appeal shall lie to the Chief Court from the order of the District Judge only on a point of law.

(6) An appeal under sub-rule (5) shall be preferred within 15 days from the date of such order exclusive of the time required for obtaining a copy of the order.

By Order,

P. MAHADEVAYYA,

Secretary to Government,
Law Department